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August 27, 2004

**VIA HAND DELIVERY**

Mr. Pat Miller, Chairman  
Attn: Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

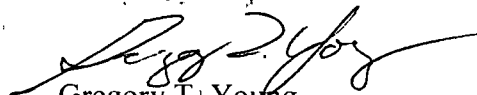
**Re: *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity, Docket No. 03-00329***

Dear Chairman Miller:

Enclosed for filing in the above-referenced docket are the original and thirteen copies of the City of Pigeon Forge's Post-Hearing Reply Brief

Should you have any questions with respect to this filing, please do not hesitate to contact me at the number shown above. Thank you in advance for your assistance with this matter

Sincerely,



Gregory T. Young

GTY/kc  
Enclosure

cc: Jim Gass, Esq. (w/enclosure)

**LATE FILED**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF ON-SITE SYSTEMS, INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY</b>	)	<b>Docket No. 03-00329</b>
	)	
	)	
<b>and</b>	)	
	)	
	)	
<b>PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY</b>	)	<b>Docket No. 04-00045</b>
	)	
	)	

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**THE CITY OF PIGEON FORGE’S POST-HEARING REPLY BRIEF**

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**INTRODUCTION**

Petitioner and the Intervenors submitted their post-hearing briefs to the Tennessee Regulatory Authority (“Authority”) on August 13, 2004. The City of Pigeon Forge (“City”) now submits this brief in response to the Post-Hearing Brief of Tennessee Wastewater Systems, Inc.

**ARGUMENTS & AUTHORITIES**

- I. **Because T.C.A. § 6-51-301(a) potentially excludes the City from providing sewer service to its urban growth area, the Authority should deny Petitioner’s application for a countywide certificate that includes the City’s urban growth area.**

Petitioner contends that the phrase “utility water service” in T.C.A. § 6-51-301(a) is plain, clear and unambiguous. (Post-Hearing Brief of Tennessee Wastewater Systems, Inc., p. 2 (hereinafter, “Petitioner’s Brief”).) The City disagrees and submits that § 6-51-301(a)’s ambiguity is

evidenced by the fact that Hearing Officer Gilliam requested post-hearing briefs on the issue of whether “utility water service” includes sewer service.

The mention of specific utilities in subsection (d) of section 301 does not mean that the General Assembly purposefully excluded sewer service from subsection (a). Neither (a) nor (d) make any mention of sewer service. While the City takes some comfort in the Attorney General’s opinion that “utility water service” does not include sewer service,<sup>1</sup> the floor debate at the Tennessee General Assembly over section 301(a) hardly evidences a clear legislative intent that section 301(a) should not apply to sewer service. Tenn. State Library and Archives, Tape No. S-232 (March 29, 1974) (Senate floor debate over Amendment 2 of H.B. 2003, which became T.C.A. § 6-51-301(a)(1)).<sup>2</sup> In discussing the effect of section 301(a), Senator Ayres at one point commented:

And that’s what this amendment does, and there’s a private water company up in Knox County that it affects, and there may be a handful of other private regulated public utilities servicing water, sewer, gas, what-have-you in the State of Tennessee. In the event some governmental body wants to take them over and furnish these services, they’re just going to have to pay them what the value is of their property that’s been taken.

Id. (emphasis added).

Petitioner’s analysis of Lynnwood and Westland fails to recognize the import of those decisions. Lynnwood is the only court decision to address the “utility water service” issue at hand

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<sup>1</sup> See, Tenn Op Atty Gen No 04-134 (attached hereto) In its opinion, the Attorney General cites no cases or statutes to support its rationale and Attorney General opinions are not binding upon Tennessee courts. See, State v Blanchard, 100 S W 3d 226, 230 (Tenn Ct Crim App 2002) (“We note first that opinions of the state attorney general are merely advisory and do not constitute legal authority binding on this Court”), citing, Washington County Bd of Education v MarketAmerica, Inc., 693 S W 2d 344, 348 (Tenn 1985)

<sup>2</sup> Counsel for the City has obtained a copy of the tapes of the floor debate from the Tennessee State Library and Archives and will provide a copy upon request In addition, attached hereto is a copy of the relevant pages from the Senate Journal of the Eighty-Eighth General Assembly of the State of Tennessee

and it assumes that § 301(a) includes sewer service. Westland holds that § 301(a) only applies prospectively. Petitioner cannot and does not dispute these two statements.

The City and the Authority must, therefore, acknowledge that a legitimate risk exists that a court will hold that § 301(a) includes sewer service, and that such a holding could preclude the City from providing sewer service within the urban growth area prior to annexation. There is no overriding reason for the Authority to ignore this potential exclusivity and to include the urban growth area within the scope of Petitioner's proposed certificate. In fact, Petitioner's decentralized operations and its failure to satisfy its burden as to public convenience and necessity support the Authority's denial as to the urban growth area. If the Authority chooses to grant a certificate for the entire urban growth area to Petitioner, the Authority should at the least craft the certificate's territory to contract in conjunction with the City's provision of sewer service in the urban growth area.<sup>3</sup>

**II. Petitioner fails to satisfy its burden to show that present or future public convenience and necessity require or will require the proposed countywide certificate.**

**A. Petitioner cannot rely on the City's general policy of only providing sewer service within its limits to assert that the City does not oppose Petitioner's application for a countywide certificate covering the City's urban growth area.**

The form letters and general policy statements of the City in no way prejudice the City's current opposition to the Petitioner's application. Any prior communication to the Petitioner does not evidence approval, but even if it does, the City timely intervened in this matter. Therefore, the City is within its legal rights to express its objections to the Petitioner's application. By its

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<sup>3</sup> Such language should limit the scope of the certificate as follows "The territory covered by this Certificate of Convenience and Necessity specifically excludes any portion of Sevier County in which the City of Pigeon Forge provides sewer utility service, whether now or in the future, prior to the provision of such services to the same users by Tennessee Wastewater Systems " This way, if Petitioner already provides sewer service to an area, the City must still annex the area before providing its own sewer service in that area

intervention in this matter, the City has clearly expressed objection to the Petitioner's application for a certificate in the urban growth area. The burden in this matter is upon Petitioner – not the City – to show via testimony and evidence that present or future public convenience and necessity require or will require the proposed utility service. See, T.C.A. § 65-4-201(a) and § 65-2-109(5).

Not only has Petitioner failed to show that public convenience and necessity require the proposed certificate, but the City has also presented convincing evidence that Petitioner's request would negatively impact public convenience and necessity for the following reasons:

1. A countywide certificate could exclude the City from providing sewer service in its urban growth area;
2. A countywide certificate would be inconsistent with the State's regional plan for development in the City's urban growth area;
3. A countywide certificate would give Petitioner an unfair competitive advantage to the harm of the public; and,
4. A countywide certificate does not make sense in light of Petitioner's decentralized, project-specific operations.

The City has presented evidence and testimony in support of these reasons and the Authority should deny Petitioner's application for a countywide certificate that covers the urban growth area based on such.

**B. Just because Petitioner has received geographic based certificates before does not mean that it is appropriate in this case.**

Just because other municipalities have not raised an issue before is no justification for granting a broad, geographic certificate here. Petitioner's reliance on previously issued geographic certificates as precedent is misplaced, considering that the Authority has issued many times more site-specific certificates to Petitioner. Moreover, to our knowledge none of the geographic

certificates cited by Petitioner involve an urban growth area that has the same density and potential for development as the City's urban growth area.<sup>4</sup>

Granting the certificate at issue here encourages unlawfulness by placing the City in a position of potentially violating the Tennessee Code. The Authority has the ability to remedy any potential illegality by denying Petitioner's application and allowing Petitioner to proceed on a project-specific basis. Petitioner cannot dispute the fact that from a practical standpoint, Petitioner's decentralized and project-specific sewer systems are much better suited for project-specific certificates. Petitioner acknowledges the Authority's ability to handle multiple project-specific certificates: "Prior to filing these petitions, the Company had filed and received thirteen certificates to provide sewer service with the Company's decentralized sewer systems within the area sought in the Petitions in this docket." (Petitioner's Brief at 6 (emphasis added).) The Authority should deny Petitioner's application and allow Petitioner to proceed on a development-by-development basis.

**C. Petitioner's evidence of convenience and necessity to itself or to developers is not a showing that *public* convenience and necessity require the proposed countywide certificate.**

Petitioner repeats the same "administrative convenience" arguments presented at the July 13, 2004 hearing, and which are distinguished from public convenience and necessity in both of the Intervenor's initial post hearing briefs. Petitioner simply confuses its own interest and the interests of developers with the public interest when Petitioner complains about the time delays and costs of obtaining individual certificates (Petitioner's Brief at 7-8).

Any time delay to Petitioner by filing for and receiving a certificate from the Authority does not appear to be significant. It is our understanding that it generally takes just two months for the

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<sup>4</sup> Stewart County has no major city

Authority to render a decision on an application.<sup>5</sup> Even if the Authority issues an order some time later, the Petitioner is still able to submit a “sewer availability letter” immediately after the Authority’s decision. Moreover, public interest may warrant a time delay to prevent chaotic, spotty development that puts an unnecessary strain on municipal roads, utilities and services such as fire, police and refuse collection. In the present case, the potential for such unnecessary strain is especially high in the City’s urban growth area where the Tennessee General Assembly has recognized that “smart growth” and urban planning are paramount. See, Pigeon Forge Exhibits 1-3; T.C.A. § 13-3-101 *et seq.*

As shown at the July 13<sup>th</sup> hearing and in both of the Intervenor’s post-hearing briefs, the Petitioner suffers no financial inconvenience and appears to receive a windfall<sup>6</sup> from the rate it charges the public. (See, Transcript, pp. 56-57; City’s Post Hearing Brief, p. 13 (7/13/03); District’s Memorandum of Law, pp. 3-4 (7/13/04).) Because Petitioner has failed to show that public convenience and necessity require a certificate that covers the urban growth area, Petitioner’s application for such should be denied.

**D. Petitioner’s maintenance efficiency argument is not supported by evidence and does not satisfy the required showing of public convenience and necessity.**

Petitioner has submitted no proof that maintenance will be improved for its customers or that maintenance services will be cheaper just because maintenance might be easier for Petitioner if it has a monopoly. Moreover, Petitioner’s reliance on independent contractors further negates its maintenance efficiency argument. (See, City’s Post Hearing Brief at 14-15.) Because Petitioner fails

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<sup>5</sup> See e.g. , TRA Electronic File Room, Docket Numbers 01-00424, 01-00755, 01-00445

<sup>6</sup> See, Letter from Charles Pickney, Jr , On-Site Systems, Inc , to David Waddell, Tennessee Regulatory Authority (June 7, 2001) (attached hereto) (“The expenses that On-Site Systems incurs for the filing of petitions are paid by the developer of each territory ”)

to prove that any maintenance efficiency benefits the public, Petitioner's application for a countywide certificate that includes the urban growth area should be denied.

**E. Allowing Petitioner to have a monopoly by granting its application for a countywide certificate would stifle competition to the detriment of the public.**

Petitioner incredibly argues that establishing a monopoly in Sevier County would somehow be consistent with competition. (Petitioner's Brief at 9-10.) Notwithstanding the fact that Petitioner would almost certainly object to any later authorization of another public utility in Sevier County, Petitioner fails to recognize that the current project-by-project authorization already is a level playing field between itself and other similarly situated public utilities, and allows competition between them.

**F. The Authority may consider the effect that the proposed certificate will have on competition and the City's provision of sewer service in the urban growth area because the Authority possesses broad plenary authority over public utilities and the ability to give probative value to any evidence accepted by reasonably prudent persons.**

Without citing any law, Petitioner incorrectly asserts that the Authority's lack of direct jurisdiction over the City or the East Sevier County Utility District precludes the Authority's consideration of the negative impacts to public convenience and necessity submitted by the City and the utility district. (Petitioner's Brief at 11-13.) The City disagrees with this limited view and has set forth persuasive legal authority that the Authority possesses broad discretion in determining whether a regulated utility's proposed certificate is required by present or future public convenience and necessity. (See, City's Post Hearing Brief at 7-8.)

While Petitioner refers to several cases that give municipalities the exclusive right to provide utility services in any territory it annexes (Petitioner's Brief at 11-12), the issue at hand is not what happens if the City annexes, but rather what happens if the City extends sewer service into a



certificated area *prior* to annexation. The anticompetitive and potentially exclusive impact of a broad, blanket certificate is clearly within the Authority's discretion to consider when determining whether such a certificate is required by public convenience and necessity.

Petitioner's countywide certificate is not required or supported by public convenience and necessity because:

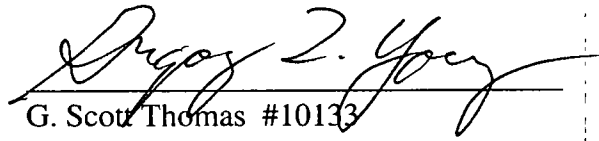
1. A countywide certificate could exclude the City from providing sewer service in its urban growth area;
2. A countywide certificate would be inconsistent with the State's regional plan for development in the City's urban growth area;
3. A countywide certificate would give Petitioner an unfair competitive advantage to the harm of the public; and,
4. A countywide certificate does not make sense in light of Petitioner's decentralized, project-specific operations.

### **CONCLUSION**

For the reasons stated herein, Petitioner has failed to meet its burden of showing that public convenience and necessity require the proposed certificate and the City requests that the Authority deny Petitioner's application.

Dated this 27<sup>th</sup> day of August, 2004.

Respectfully submitted,



G. Scott Thomas #10133

Gregory T. Young #21775

Bass, Berry & Sims, PLC

315 Deaderick Street, Suite 2700

Nashville, TN 37238

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*Attorneys for City of Pigeon Forge, Tennessee*

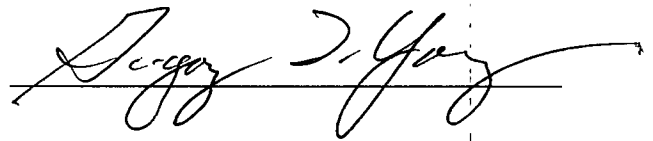
### **CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing has been served on the following, via U.S. Mail, postage prepaid, this the 27<sup>th</sup> day of August, 2004.

Mark Jendrek  
Mark Jendrek P.C.  
P.O. Box 549  
Knoxville, TN 37901

Charles B. Welch, Jr.  
Farris, Matthews, Branan, Bobango & Hellen, PLC  
618 Church Street, Suite 300  
Nashville, TN 37219

Donald L. Scholes  
Branstetter, Kilgore, Stranch & Jennings  
227 Second Avenue North, 4<sup>th</sup> Floor  
Nashville, TN 37201-1631



STATE OF TENNESSEE  
OFFICE OF THE  
ATTORNEY GENERAL  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

August 20, 2004

Opinion No. 04-134

"Utility Water Service" under Tenn. Code Ann. § 6-51-301(a)(1)

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**QUESTION**

Under Tenn. Code Ann. § 6-51-301(a)(1), no city may render "utility water service" outside its boundaries when all of the area to be served is included within the scope of a certificate from an appropriate regulatory agency authorizing some other person, firm, or corporation to render utility water service. Does a city's provision of sewer service come within the meaning of "utility water service" under this statute in light of *Lynwood Utility Company v. Franklin*, No. 89-360-II, 1990 WL 38358 (M.S. Tenn.Ct.App. April 6, 1990)?

**OPINION**

In *Lynwood*, the Court of Appeals expressly declined to hold that the term "utility water service" as used in the statute included sewer service. This case, therefore, does not provide binding legal authority for including sewer service within that term. Because Tennessee statutes generally list water and sewer service as separate services, a court is likely to conclude that the term "utility water service" as used in Tenn. Code Ann. § 6-51-301(a) does not include a sanitary sewer system. But other statutes, including Tenn. Code Ann. § 7-51-401(c) and Tenn. Code Ann. § 7-82-301(a), could also prohibit a city from extending sewer service beyond its city boundaries.

**ANALYSIS**

This opinion concerns the definition of "utility water service" as used in the following statute:

Notwithstanding any other law, public or private, to the contrary, no municipality may render utility water service to be consumed in any area outside its municipal boundaries when all of such area is included within the scope of a certificate or certificates of convenience and necessity or other similar orders of the Tennessee regulatory authority or other appropriate regulatory agency outstanding in favor of any person, firm or corporation authorized to render such utility water service.

STATE OF TENNESSEE  
OFFICE OF THE  
ATTORNEY GENERAL  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

August 20, 2004

Opinion No. 04-134

"Utility Water Service" under Tenn. Code Ann. § 6-51-301(a)(1)

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**QUESTION**

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**OPINION**

In *Lynwood*, the Court of Appeals expressly declined to hold that the term "utility water service" as used in the statute included sewer service. This case, therefore, does not provide binding legal authority for including sewer service within that term. Because Tennessee statutes generally list water and sewer service as separate services, a court is likely to conclude that the term "utility water service" as used in Tenn. Code Ann. § 6-51-301(a) does not include a sanitary sewer system. But other statutes, including Tenn. Code Ann. § 7-51-401(c) and Tenn. Code Ann. § 7-82-301(a), could also prohibit a city from extending sewer service beyond its city boundaries.

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Tenn. Code Ann. § 6-51-301(a). The request refers to an unpublished opinion of the Tennessee Court of Appeals for the Middle Section, *Lynnwood Utility Company v. Franklin*, No. 89-360-II, 1990 WL 38358 (M.S. Tenn.Ct.App. April 6, 1990). That case actually addressed a city's obligation to pay damages suffered by a sewer company when the city annexed land within the company's service territory and decided to provide sewer service to the area. That requirement is in the third sentence of Tenn. Code Ann. § 6-51-301(a)(1), which is not quoted above. The Court stated that it would "assume without holding" that the term "utility water service" in the statute included sewer service provided by the company. But the Court found that the utility company had suffered no damages under the statute because it did not provide service to the annexed area. The Court, therefore, expressly declined to hold that the term "utility water service" as used in the statute included sewer service. This case, therefore, does not provide binding legal authority for including sewer service within that term.

The term "utility water service" is not used in any other Tennessee statute. Other statutes expressly mention water and sewer service, reflecting an assumption that the two types of services are different. For example, Tenn. Code Ann. § 6-51-102, also a part of the statutory annexation scheme, refers to a plan of services that must include, among others, "water service" and "sanitary sewer service." Tenn. Code Ann. § 6-51-102(b)(2). Tenn. Code Ann. § 7-35-201(1) authorizes a city "also providing water services" to a property to terminate water service to a customer that refuses to connect to a city sanitary sewer system. Under Tenn. Code Ann. § 6-54-122(f), a statute on eminent domain procedure does not apply to eminent domain by a city to acquire property interests to be used to benefit a municipal utility, including "water utility services" and "sewer utility services." Based on these statutes, a court is likely to conclude that the term "utility water service" as used in Tenn. Code Ann. § 6-51-301(a) does not include a sanitary sewer system.

Depending on the facts and circumstances, other statutes would also be relevant to this issue. Under Tenn. Code Ann. § 7-51-401(a), with one exception, a city is authorized to extend its sewage collection and treatment services outside its boundaries to customers desiring the service. But subsection (c) of the statute provides:

No such . . . municipality . . . shall extend its services into sections of roads or streets *already occupied by other public agencies rendering the same service*, so long as such other public agency continues to render such service.


Tenn. Code Ann. § 7-51-401(c) (emphasis supplied). The statute does not define the term "public agency," but it clearly includes a utility district operating under Tenn. Code Ann. §§ 7-82-101, *et seq.*, and arguably includes a utility company holding a certificate of authority from the Tennessee Regulatory Authority. Under this statute, therefore, a city would be prohibited from extending sewer service to an area outside its boundaries that is already being served by a public agency. In addition, a utility district is the sole public corporation empowered to furnish authorized services in its territory, "unless and until it has been established that the public convenience and necessity requires other or additional services[.]" Tenn. Code Ann. § 7-82-301. Under this statute, a city would be

Page 3

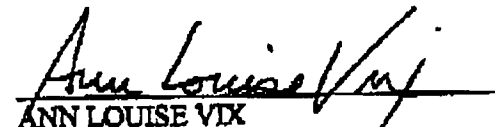
prohibited from extending sewer service to an area outside its boundaries and within the service area of a utility district authorized to furnish sewer services, unless it were established that the public convenience and necessity requires other or additional services. This Office has concluded that a city may petition the county executive to limit the service area of a utility district or otherwise allow the municipality to serve the area. Op. Tenn. Att'y Gen. 02-110 (October 4, 2002).



PAUL G. SUMMERS  
Attorney General



MICHAEL E. MOORE  
Solicitor General



ANN LOUISE VIX  
Senior Counsel

Requested by:

Honorable Bill Clabough  
State Senator  
309 War Memorial Building  
Nashville, TN 37243-0208

**SENATE JOURNAL**  
Of The  
**Eighty-Eighth General Assembly**  
Of The  
**STATE OF TENNESSEE**

Which Convened At  
**NASHVILLE**  
**TUESDAY, JANUARY 2, 1973**

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**Volume II**

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**ORGANIZATIONAL**  
**AND**  
**FIRST REGULAR**  
**SESSIONS**

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**PREPARED BY**  
**JOHN W. COOKE, JR., Chief Clerk**  
**J. T. CRAIG, Assistant Chief Clerk**

son, Shacklett, Talarico, Thomas, Williams and Mr. Speaker Wilder—24.

A motion to reconsider was tabled

FURTHER ACTION ON HOUSE BILL NO 2003, AS AMENDED

Mr. Ayres moved to amend as follows:

AMENDMENT NO. 2

By renumbering Section 5 to be Section 6 and inserting a new Section 5 to read as follows.

"SECTION 5. Section 6-319, Tennessee Code Annotated, is amended by deleting therefrom the first paragraph, which reads as follows:

'If and to the extent that a municipality chooses to render utility water service within or adjacent to its municipal boundaries when all or any part of such area is included within the scope of a certificate or certificates of convenience and necessity or other similar orders of the Tennessee public service commission or other appropriate regulatory agency outstanding in favor of any person, firm or corporation authorized to render such utility water service; then the municipality and such person, firm or corporation shall attempt to reach agreement in writing for allocation and conveyance to the municipality of any or all public utility functions, rights, duties, property, assets and liabilities of such person, firm or corporation so affected that justice and reason may require. If, within a reasonable time, the parties cannot agree in writing on allocation and conveyance, then either party may petition the circuit court of the circuit in which such area is located for a determination of value and damages suffered by such person, firm or corporation as a result of such municipal choice'

"and substituting in lieu thereof the following.

'Notwithstanding any other law, public or private, to the contrary no municipality may render utility water service to be consumed in any area outside its municipal boundaries when all of such area is included within the scope of a certificate or certificates of convenience and necessity or other similar orders of the Tennessee public service commission or other appropriate regulatory agency outstanding in favor of any person, firm or

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Amendment No.  
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Ayes  
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Present, not

Senators voting  
Baird (of Wilson),  
Harvill, Henry, Koe  
son, Williams and M

Senators present

Thereupon, Hou  
final reading by the

Ayes  
Noes  
Present, not

Senators voting  
Baird (of Wilson)  
Harvill, Henry, M.  
Talarico, White, Wil



r. Speaker Wilder—24.

AS AMENDED

Inserting a new Section

Code Annotated, is  
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corporation authorized to render such utility water service. If and to the extent that a municipality chooses to render utility water service to be consumed within its municipal boundaries when all or part of such area is included within the scope of a certificate or certificates of convenience and necessity or other similar orders of the Tennessee public service commission or other appropriate regulatory agency outstanding in favor of any person, firm or corporation authorized to render such utility water service; then the municipality and such person, firm or corporation shall attempt to reach agreement in writing for allocation and conveyance to the municipality of any or all public utility functions, rights, duties, property, assets, and liabilities of such person, firm or corporation so affected that justice and reason may require. If within a reasonable time the parties cannot agree in writing on allocation and conveyance, then either party may petition the chancery court of the circuit in which such area is located for a determination of value and damages suffered by such person, firm or corporation as a result of such municipal choice' "

Amendment No 2 to House Bill No. 2003 was adopted by the following vote.

Ayes	21
Noes	0
Present, not voting	2

Senators voting aye were: Messrs. Albright, Ayres, Baird (of Roane), Baird (of Wilson), Baker, Berry, Dunavant, Garland, Gillock, Hamilton, Harvill, Henry, Koella, Motlow, Nave, Oehmig, Patterson, Peeler, Roberson, Williams and Mr Speaker Wilder—21

Senators present and not voting were: Messrs Blank and Davis—2

Thereupon, House Bill No 2003, as amended, passed its third and final reading by the following vote:

Ayes	22
Noes	0
Present, not voting	1

Senators voting aye were. Messrs Albright, Ayres, Baird (of Roane), Baird (of Wilson), Baker, Berry, Blank, Garland, Gillock, Hamilton, Harvill, Henry, Motlow, Nave, Oehmig, Patterson, Peeler, Roberson, Talarico, White, Wilhams and Mr Speaker Wilder—22

Senator present and not voting was: Mr. Davis—1.

A motion to reconsider was tabled.

MESSAGE FROM THE GOVERNOR

MR. SPEAKER. I am directed by the Governor to return herewith Senate Bills Nos. 956, 1527, 1646, 1760, 1792, 1945, 2074 and 2083, with his approval.

M. LEE SMITH.

MESSAGE FROM THE HOUSE

MR. SPEAKER. I am directed to request the return of Senate Bill No. 2055, for further consideration.

FREE, Clerk.

Mr. Oehmig moved that Senate Bill No. 2055 be returned to the House as requested, which motion prevailed.

Mr. Roberson requested that his name be withdrawn as a member of the Conference Committee on House Bill No. 257.

The Speaker announced the appointment of Mr. Baird (of Wilson), to replace Mr. Roberson as a member of the Conference Committee on House Bill No. 257.

Mr. Henry moved that House Bill No. 389 be rereferred to Committee on State and Local Government, which motion prevailed.

RESOLUTIONS LYING OVER

House Joint Resolution No. 531—Relative to commending Elder W. L. Porter.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion, the resolution was concurred in.

A motion to reconsider was tabled.

FRI

Mr. Williams  
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MR. SPEAKER:  
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**ON-SITE SYSTEMS, INC.**

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EXECUTIVE SECRETARY  
EXECUTIVE SECRETARY

June 7, 2001

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

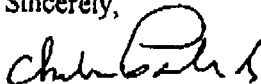
RE: Docket # 01-00423 - Petition of On-Site Systems, Inc to amend its Certificate of Convenience and Necessity - Wears Valley

Dear Mr. Waddell:

In response to your request dated May 21, 2001 to clarify some issues presented by the staff on the above-referenced case Our response is as follows:

1. Please find attached two letters from the City of Pigeon Forge City Manager's Office and Sevier County's Executive Office stating that they have no plans to provide service for the next twelve months.
2. The expenses that On-Site Systems incurs for the filing of petitions are paid by the developer of each territory. Per the contract with the developer, the cost of construction is increased by ten percent (10%) to cover costs such as securing the service area, reviewing the engineering design and inspecting the construction. A copy of the contract is attached for your review.

Sincerely,



Charles Pickney, Jr., President  
On-Site Systems, Inc.

**7638 River Road Pike Nashville TN 37209-5733**  
**(615) 356-7294 Fax (615) 356-7295**